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Resolution adopted by the General Assembly

[on the report of the Third Committee (A/64/439/Add.3)]

64/238. Situation of human rights in Myanmar

The General Assembly,

Guided by the Charter of the United Nations and the Universal Declaration of Human Rights,[1] and recalling the International Covenants on Human Rights[2] and other relevant human rights instruments,

Reaffirming that all Member States have an obligation to promote and protect human rights and fundamental freedoms and the duty to fulfil the obligations they have undertaken under the various international instruments in this field,

Reaffirming also its previous resolutions on the situation of human rights in Myanmar, the most recent of which is resolution 63/245 of 24 December 2008, those of the Commission on Human Rights, and the resolutions of the Human Rights Council, the most recent of which are 10/27 of 27 March 2009[3] and 12/20 of 2 October 2009,[4]

Welcoming the statements made by the President of the Security Council on 11 October 2007 and 2 May 2008,[5] and the Security Council statements to the press of 22 May 2009 and 13 August 2009,[6]

Welcoming also the report of the Secretary-General on the situation of human rights in Myanmar,[7] as well as his visit to the country on 3 and 4 July 2009, and the visits of his Special Adviser on Myanmar from 31 January to 3 February and on 26 and 27 June 2009 respectively, while regretting that the Government of Myanmar

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[1] Resolution 217 A (III).

[2] See resolution 2200 A (XXI), annex.

[3] See *Official Records of the General Assembly, Sixty-fourth Session, Supplement No. 53* (A/64/53), chap. II, sect. A.

[4] See A/HRC/12/50, part one, chap. I.

[5] S/PRST/2007/37 and S/PRST/2008/13; see *Resolutions and Decisions of the Security Council, 1 August 2007–31 July 2008*.

[6] SC/9662 and SC/9731.

[7] A/64/334.

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did not seize the opportunity of those visits to work towards the fulfilment of the good offices mission,

Welcoming further the reports of the Special Rapporteur on the situation of human rights in Myanmar[8] and his oral presentations, and the fact that a date has now been established for a follow-up visit by the Special Rapporteur,

Deeply concerned that the urgent calls contained in the above-mentioned resolutions, as well as the statements of other United Nations bodies concerning the situation of human rights in Myanmar, have not been met, and emphasizing that, without significant progress towards meeting these calls of the international community, the situation of human rights in Myanmar will continue to deteriorate,

Deeply concerned also at restrictions to effective and genuine participation of the representatives of the National League for Democracy and other political parties and other relevant stakeholders, including some ethnic groups, in a genuine process of dialogue, national reconciliation and transition to democracy,

Calling upon the Government of Myanmar to cooperate with the international community in order to achieve concrete progress with regard to human rights and fundamental freedoms, and political processes, and to take immediate steps to ensure a free and fair electoral process which is transparent and inclusive, leading to a genuine democratic transition through concrete measures,

1. *Strongly condemns* the ongoing systematic violations of human rights and fundamental freedoms of the people of Myanmar;

2. *Expresses grave concern* at the recent trial, conviction and sentencing of Daw Aung San Suu Kyi, resulting in her return to house arrest, and calls for her immediate and unconditional release;

3. *Urges* the Government of Myanmar to release all prisoners of conscience, currently estimated at more than 2,000, without delay, without conditions and with full restoration of their political rights, while noting the recent release of more than 100 prisoners of conscience, and strongly calls upon the Government of Myanmar to reveal the whereabouts of persons who are detained or have been subjected to enforced disappearance, and to desist from further politically motivated arrests;

4. *Reaffirms* the essential importance of a genuine process of dialogue and national reconciliation for a transition to democracy, notes with appreciation recent contact between the Government of Myanmar and Daw Aung San Suu Kyi, and calls on the Government of Myanmar to take immediate measures to undertake a genuine dialogue with Daw Aung San Suu Kyi and all other concerned parties and ethnic groups, and to permit Daw Aung San Suu Kyi contact with the National League for Democracy and other domestic stakeholders;

5. *Strongly urges* the Government of Myanmar to ensure the necessary steps to be taken towards a free, fair, transparent and inclusive electoral process and calls on the Government to take such steps without delay, including by enacting the required electoral laws and allowing the participation of all voters, all political parties and all other relevant stakeholders in the electoral process;

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[8] A/64/318 and A/HRC/10/19.

6. *Strongly calls upon* the Government of Myanmar to lift restrictions on the freedom of assembly, association, movement and freedom of expression, including for free and independent media, including through the openly available and accessible use of Internet and mobile telephone services, and ending the use of censorship;

7. *Expresses grave concern* at the continuing practice of arbitrary detentions, enforced disappearances, rape and other forms of sexual violence, torture and cruel, inhuman and degrading treatment, and strongly calls upon the Government of Myanmar to allow a full, transparent, effective, impartial and independent investigation into all reports of human rights violations, and to bring to justice those responsible in order to end impunity for such crimes;

8. *Calls upon* the Government of Myanmar to undertake a transparent, inclusive and comprehensive review of compliance of the Constitution and all national legislation with international human rights law, while fully engaging with democratic opposition and ethnic groups, while recalling that the procedures established for the drafting of the Constitution resulted in a de facto exclusion of the opposition from the process;

9. *Urges* the Government of Myanmar to ensure the independence and impartiality of the judiciary and to guarantee due process of law, and to fulfil earlier assurances made to the Special Rapporteur on the situation of human rights in Myanmar to begin a dialogue on judicial reform;

10. *Expresses concern* about the conditions in prisons and other detention facilities, and consistent reports of ill-treatment of prisoners of conscience, including torture, and about the moving of prisoners of conscience to isolated prisons far from their families where they cannot receive food and medicine;

11. *Expresses deep concern* about the resumption of armed conflict in some areas, and calls upon the Government of Myanmar to protect the civilian population in all parts of the country and for all concerned to respect existing ceasefire agreements;

12. *Strongly calls upon* the Government of Myanmar to take urgent measures to put an end to violations of international human rights and humanitarian law, including the targeting of persons belonging to particular ethnic groups, the targeting of civilians by military operations, and rape and other forms of sexual violence, and to end impunity for such acts;

13. *Also strongly calls upon* the Government of Myanmar to end the practice of systematic forced displacement of large numbers of persons within their country and other causes of refugee flows into neighbouring countries;

14. *Expresses its concern* about the continuing discrimination, human rights violations, violence, displacement and economic deprivation affecting numerous ethnic minorities, including, but not limited to, the Rohingya ethnic minority in Northern Rakhine State, and calls upon the Government of Myanmar to take immediate action to bring about an improvement in their respective situations, and to grant citizenship to the Rohingya ethnic minority;

15. *Urges* the Government of Myanmar to provide, in cooperation with the Office of the United Nations High Commissioner for Human Rights, adequate human rights and international humanitarian law training for its armed forces, police and prison personnel, to ensure their strict compliance with international human

rights law and international humanitarian law and to hold them accountable for any violations thereof;

16. *Welcomes* the dialogue between the Government of Myanmar and the Committee on the Elimination of Discrimination against Women on the occasion of the consideration of the Government's report in November 2008, as a sign of engagement in international cooperative efforts in the field of human rights, and encourages the Government to work to fulfil the recommendations of the Committee;

17. *Calls upon* the Government of Myanmar to consider acceding to remaining international human rights treaties, which would enable a dialogue with the other human rights treaty bodies;

18. *Also calls upon* the Government of Myanmar to allow human rights defenders to pursue their activities unhindered and to ensure their safety, security and freedom of movement in that pursuit;

19. *Strongly calls upon* the Government of Myanmar to put an immediate end to the continuing recruitment and use of child soldiers in violation of international law by all parties, to intensify measures to ensure the protection of children from armed conflict and to pursue its collaboration with the Special Representative of the Secretary-General for Children and Armed Conflict, including by granting access to areas where children are recruited, for the purpose of implementing an action plan to halt this practice;

20. *Notes with appreciation* that some further steps have been taken with regard to the supplementary understanding between the International Labour Organization and the Government of Myanmar to eliminate the use of forced labour, but expresses grave concern at the continuing practice of forced labour, and urges the Government to continue to work with the International Labour Organization on the basis of the understanding, including through awareness-raising activities, with a view to extending action against forced labour as widely as possible throughout the country and to fully implementing the recommendations of the Commission of Inquiry of the International Labour Organization;

21. *Notes* the continued cooperation of the Government of Myanmar with the international community, including the United Nations, in delivering humanitarian assistance to the people affected by Cyclone Nargis, and in the light of ongoing humanitarian need encourages the Government of Myanmar to ensure that cooperation is maintained, and the continuation of the Tripartite Core Group mechanism;

22. *Calls upon* the Government of Myanmar to ensure timely, safe, full and unhindered access to all parts of Myanmar, including conflict and border areas, for the United Nations, international humanitarian organizations and their partners and to cooperate fully with those actors to ensure that humanitarian assistance is delivered to all persons in need throughout the country, including displaced persons;

23. *Also calls upon* the Government of Myanmar to resume its humanitarian dialogue with the International Committee of the Red Cross and to allow it to carry out its activities according to its mandate, in particular by granting access to persons detained and to areas of internal armed conflict;

24. *Welcomes* the progress reported on the work conducted by the Government of Myanmar and international humanitarian entities on HIV/AIDS;

25. *Reaffirms its full support* for the good offices of the Secretary-General pursued through his Special Adviser on Myanmar, consistent with the report of the Secretary-General on the situation of human rights in Myanmar,[1] and urges the Government of Myanmar to cooperate fully with the good offices mission in the fulfilment of its responsibilities as mandated by the General Assembly, including by facilitating the visits of the Special Adviser to the country and granting him unrestricted access to all relevant parties, including the highest level of leadership within the regime, human rights defenders, representatives of ethnic minorities, student leaders and other opposition groups, and to respond substantively and without delay to the five-point plan of the Secretary-General, including the establishment of a United Nations office in support of the mandate of the good offices;

26. *Welcomes* the role played by countries neighbouring Myanmar and members of the Association of Southeast Asian Nations in support of the good offices mission of the Secretary-General, and in relief efforts following Cyclone Nargis, and encourages the continuation and intensification of efforts in this regard;

27. *Welcomes also* the continued contribution of the Group of Friends of the Secretary-General on Myanmar to facilitate the work of the good offices mission;

28. *Welcomes further* the favourable response to granting the Special Rapporteur's requests to visit the country, and urges the Government to cooperate fully with him in the exercise of his work as mandated by the Human Rights Council, and to implement the four core human rights elements recommended by the Special Rapporteur;

29. *Calls upon* the Government of Myanmar to engage in a dialogue with the Office of the United Nations High Commissioner for Human Rights with a view to ensuring full respect for all human rights and fundamental freedoms;

30. *Requests* the Secretary-General:

(*a*) To continue to provide his good offices and to pursue his discussions on the situation of human rights, the transition to democracy and the national reconciliation process with the Government and the people of Myanmar, including democracy and human rights groups and all relevant parties, and to offer technical assistance to the Government in this regard;

(*b*) To give all necessary assistance to enable the Special Adviser and the Special Rapporteur to discharge their mandates fully and effectively and in a coordinated manner;

(*c*) To report to the General Assembly at its sixty-fifth session, as well as to the Human Rights Council, on the progress made in the implementation of the present resolution;

31. *Decides* to continue the consideration of the question at its sixty-fifth session, on the basis of the report of the Secretary-General and the interim report of the Special Rapporteur.

68th plenary meeting
24 December 2009